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Summary record of the first part (public)* of the 1236th meeting
Held at the Palais Wilson, Geneva, on Thursday, 15 May 2014, at 10 a.m.

Chairperson: Mr. Grossman

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.1236/Add.1.

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The meeting was called to order at 10.05 a.m.

Consideration of reports submitted by States parties under article 19 of the Convention (*continued*)

Report on follow-up to concluding observations

1. **Ms. Gaer** (Rapporteur for follow-up to concluding observations) recalled for the benefit of the new members of the Committee that the follow-up procedure had been introduced in 2003 and that its aim was to obtain information on the measures taken to implement certain recommendations made by the Committee following the consideration of States parties' reports. The recommendations identified for follow-up must meet three criteria, namely they must involve serious concerns, and be protective in nature and achievable within one year. In the interests of efficiency, the Committee had decided to target its requests for information by focusing on four main issues — fundamental legal safeguards, prompt, impartial and effective investigations, prosecution and punishment of persons accused or found guilty of acts of torture, and redress — and to try to limit the number of recommendations identified for follow-up to four. A standard paragraph to that effect had been added to the end of the Committee's concluding observations. Committee members would find a summary, country by country, of all the requests for follow-up made from the thirtieth to the fifty-first session in the working paper that had been distributed to them (document without a symbol distributed in the meeting room, in English only). The document could also be consulted on the Committee's web page devoted to the follow-up procedure.

2. While between 75 and 80 per cent of the States parties concerned responded when the procedure was first introduced, that rate had gradually fallen and currently stood at 60 per cent. The States that had not responded to the Committee's requests for follow-up were mostly from Africa, Asia and Latin America. According to the most recent statistics available, 15 were from Africa, 7 from Latin America, 7 from Asia, 5 from Eastern Europe and 2 from Western Europe or North America. Furthermore, practice had shown that the coexistence of the follow-up procedure and the procedure for the lists of issues prior to reporting created scheduling problems and could be a source of confusion for States parties. Therefore, the Committee needed to think of how best to use the follow-up procedure to achieve its main objective, which was to promote more effective implementation of the Convention. One way of doing so might be to use a standard questionnaire on the four main issues mentioned above while highlighting the work being done by or with the support of the Office of the United Nations High Commissioner for Human Rights in the country in question, the subjects on which the Committee sought clarification before it prepared future lists of issues, as well as the issues that it wished to have raised under the universal periodic review process. Another might be for Committee delegations that included members of the secretariat and country rapporteurs to make on-site visits to the countries concerned. In so doing, the assessment of the measures taken to implement the Committee's recommendations would not be based solely on a paper exercise but also on the situation observed first hand in the field. Such an approach would of course have a significant bearing on both the financial and human resources and on the working methods of the Committee, which would have to be thoroughly revised.

3. **Mr. Gaye** said that the follow-up procedure should only address a small number of issues, which should include, first and foremost, conducting investigations into all allegations of torture, and should only target recommendations relating to serious situations that required the State to take urgent action. The Committee should consider the proposal relating to the preparation of a standard questionnaire.

4. **Mr. Zhang** Kening said that he was grateful to Ms. Gaer for the useful remarks that she had made on the follow-up procedure. He was also of the opinion that the procedure

should be targeted if it was to be effective. A standard questionnaire would have the advantage of avoiding any difference in treatment between States parties. While the idea of conducting on-site country visits was appealing, it would be difficult to translate into reality owing to numerous obstacles.

5. **Mr. Tugushi** commended Ms. Gaer on the work that she had done in her capacity as Rapporteur for follow-up to concluding observations over the years. Conducting visits would clearly be a good way to enhance follow-up, particularly in States where, for lack of reliable sources of information from the non-governmental sector, the Committee was not really in a position to assess the implementation of its recommendations. However, even if resources were allocated for it to conduct such visits, the Committee could not go to all States parties and would therefore have to set priorities. A visit could be organized on a trial basis to determine the feasibility of such an approach.

6. **Mr. Modvig** said that a standard questionnaire would likely make the follow-up to concluding observations less tailored to specific needs unless it was accompanied by result indicators that could determine the precise extent to which the Committee's recommendations had been implemented in the areas under consideration. While country visits would most likely broaden the scope of the Committee's work, they might be difficult to conduct.

7. **The Chairperson** said that it was first necessary to make the follow-up procedure more formal by establishing guidelines which set out its various stages and practical details, for the benefit of both the members of the Committee and the States. That item should be placed on the agenda of the meetings in November at which the Committee would take up its working methods. Any suggestions that Ms. Gaer wished to make to the Committee in that regard would be very useful.

8. **Mr. Mesli** (Al Karama) said that the Committee's secretariat should inform civil society organizations of the deadlines for submitting their contributions to facilitate their participation in the follow-up procedure.

9. **Ms. Gaer** said that there were no formal deadlines for the submission of contributions. Non-governmental organizations were free at any time to send information to the Committee that they considered relevant to the follow-up on its recommendations. They also had access to the letters sent to States parties and their replies, which were posted on the Committee's web page devoted to the follow-up procedure. While establishing guidelines on follow-up undoubtedly warranted further discussion, it should be recalled that certain details of the follow-up procedure were already set out in the Committee's rules of procedure.

Consideration of communications submitted under article 22 of the Convention (*continued*)

Report on follow-up to communications

10. **Ms. Belmir** (Rapporteur for follow-up to communications), providing an overview of the information compiled since the fifty-first session on follow-up to the Committee's decisions concerning communications (document without a symbol distributed in the meeting room, in English only), said that, in the case of *Nikolić v. Serbia* (communication No. 174/2000), the State party had sent a letter to the Committee in December 2013 informing it that the complainants had been compensated in 2008 for the non-pecuniary injury caused by the death of their son. However, the appeal that they had filed with the Supreme Court in 2007 with a view to opening a new investigation had been rejected. The letter in question had been sent to counsel for comment but, to date, no reply had been received. Given that compensation had been paid to the complainants and that the case was quite old, the Petitions Unit had suggested that the Committee should end the dialogue

while emphasizing that the measures taken by the State party had given the interested parties only partial satisfaction. She did not endorse that proposal because it was not certain that the complainants had in fact received the compensation that the State party claimed to have paid them. The Committee should contact them to confirm whether that was the case. Furthermore, the Serbian authorities had still not acted on the Committee's request for the investigation into the death of the complainants' son to be reopened, as the Supreme Court had rejected the appeal filed to that end. Consequently, the dialogue should remain open.

11. As to the cases of *Ben Salem v. Tunisia* (communication No. 269/2005) and *Saadia Ali v. Tunisia* (communication No. 291/2006), she said that the World Organization against Torture (OMCT), which was representing the complainants, had corresponded with the Prime Minister about those cases in 2011 but that, despite the change of Government, the Tunisian authorities had still not implemented the Committee's decisions concerning the communications. She therefore proposed that the dialogue should remain open. As to the case of *Eftekhary v. Norway* (communication No. 31/2006), she suggested that the dialogue should remain open, as the complainant would likely be subjected to torture if he were to be sent back to his country, the Islamic Republic of Iran, and that the State party was currently considering whether to grant him a residence permit. The Committee might also wish to carry on discussing the cases of *Slyusar v. Ukraine* (communication No. 353/2008), *Dewage v. Australia* (communication No. 387/2009) and *Abichou v. Germany* (communication No. 430/2010), as well as the cases of *Gerasimov v. Kazakhstan* (communication No. 433/2010), *Evloev v. Kazakhstan* (communication No. 441/2010) and *Abdussamatov et. al. v. Kazakhstan* (communication No. 444/2010).

12. **The Chairperson**, speaking in his capacity as Special Rapporteur for new communications and interim measures, said that the Committee had received 22 requests for interim measures and had approved all of them.

13. **Mr. Gaye** said that the Committee scrupulously performed its tasks relating to follow-up to communications and that the delays that had occurred during the procedure were primarily attributable to the lack of diligence of certain States parties and to the difficulties encountered by the Rapporteur in locating and contacting complainants. Moreover, he noted that the decisions adopted by the Committee when it considered communications were sometimes at variance with its jurisprudence, which could damage its credibility. He therefore suggested that the Committee should discuss that matter during its day of discussion on its working methods at the fifty-third session.

14. **Mr. Mesli** (Al Karama) would like to know whether, before ending the dialogue with a State party, the Committee might first inform the author of the communication of its intentions and solicit the author's views on the matter. He also wished to know what action had been taken on the two cases concerning Algeria that had not been mentioned by the Rapporteur, which concerned the death of Mr. Hanafi (communication No. 341/2008) and Mr. Hammouche (communication No. 376/2009) as a result of torture.

15. **Ms. Belmir**, endorsing Mr. Gaye's remarks, agreed that more needed to be done to make the Committee's jurisprudence more coherent and that the Committee should take up the issue as a matter of urgency. As to the case of *Hanafi v. Algeria*, the Committee had requested the State party to reopen the investigation. The dialogue remained open.

16. **The Chairperson** said that, if there were no objections, he would consider that the Committee wished to approve the proposals made by the Rapporteur.

17. *It was so decided.*

The meeting was suspended at 11.50 a.m. and resumed at 12.10 p.m.

Report of the Rapporteur on reprisals

18. **Mr. Tugushi** (Rapporteur on reprisals), reviewing the cases of reprisals brought before the Committee since its fifty-first session in accordance with article 19 of the Convention, said that in 2013 the Russian NGOs Public Verdict and Memorial Anti-discrimination Centre, which had submitted shadow reports to the Committee in connection with its consideration of the fifth periodic report of the Russian Federation in November 2012, had been the target of reprisals. They had been prosecuted by the Procurator-General's Office under the new law on foreign agents, according to which NGOs that received funding from other States were required to register as foreign agents, and then tried and sentenced. Memorial had filed an appeal with the Constitutional Court, which had found the law on foreign agents to be in conformity with the Constitution and international standards and had ordered it to register as a foreign agent.

19. The Rapporteur and the Chairperson of the Committee had sent several letters to the Russian authorities and had made public statements urging the Russian Federation to stop persecuting NGOs that collaborated with the Committee. Furthermore, the Chairperson had raised the matter of reprisals in a number of contexts, notably at the meeting of the chairpersons of the treaty bodies, at the General Assembly and at the Committee's recent meeting with the Chairperson of the Subcommittee on Prevention of Torture, with which it collaborated in the fight against reprisals. The Rapporteur intended to continue to closely monitor the situation of the Russian NGOs mentioned above. In the interests of transparency, all correspondence with States parties concerning reprisals was posted on the Committee's web page.

20. **Mr. Modvig** wondered whether the Committee might not be informed of all the cases of reprisals against persons or organizations that had collaborated with it. If that was the case, it might adopt a preventive approach, for example by ensuring that the situation of such persons or organizations was systematically monitored and by contacting them once a year to ask whether they were encountering any problems.

21. **Ms. Belmir** said that the Committee should build on the momentum created by the treaty body strengthening process to give greater prominence to the question of reprisals in its work. Noting that journalists were sometimes the victims of reprisals, she mentioned the case of the journalists imprisoned in Egypt who had been on a hunger strike for four months and whose life was in danger. In general, the situation in Egypt could justify the opening of an investigation under article 20 of the Convention.

22. **Ms. Gaer** said that there were NGOs that took part in closed meetings with the Committee but did not attend the public meetings devoted to the consideration of the State party report on which they had provided information for fear of reprisals. She would like to know whether, in such cases, the Committee directly monitored the situation of the organizations concerned. Moreover, she pointed out that the Memorial Anti-Discrimination Centre had ceased its activities on account of the legal proceedings initiated against it. Given that the Committee had corresponded with the State party on the matter, she wondered what other courses of action might be available to the Committee in such cases.

23. **Ms. Pradhan-Malla** asked what measures the Committee could take to prevent reprisals against the organizations with which it was not in direct contact but which dealt with matters related to its mandate.

24. **Mr. Tugushi** said that, in the case of the Memorial Anti-Discrimination Centre, despite the fact that the Committee had been in direct contact with the Russian authorities and had made several public statements, its efforts had been in vain, which begged the question of whether the Committee could have done more. A Saint Petersburg court had agreed with the conclusion of the Procurator-General of the Russian Federation that the report submitted by that organization to the Committee showed that it carried out political

activities and that, consequently, it was breaking the law by not declaring itself as a foreign agent to the Ministry of Justice. The Centre had preferred to cease its activities rather than register with the authorities. In 2013, the Office of the Procurator-General had a record of 215 NGOs that had received funding from abroad whose activities seemed to be political in nature. A number of NGOs had refused to register as foreign agents and had been fined while others, such as Golos, had suspended their activities indefinitely. On 8 April 2014, the Constitutional Court had found that the federal law concerning the regulation of activities of non-profit organizations did not run counter to the Constitution. However, it had repealed the provision prescribing fines, as it considered the amounts set to be too high.

25. The Rapporteur agreed that the Committee should try to take a proactive approach to preventing reprisals. It was with that in mind that, for the first time, the Committee had raised the matter directly with two States parties during its recent session by urging them to avoid taking any measures against the NGOs that had provided it with information and indicating that it would monitor the situation. The Committee took cases such as the one mentioned by Ms. Belmir very seriously. To prevent such cases, the Committee could initiate the follow-up procedure discussed previously when it possessed information indicating that pressure was being exerted on human rights defenders, NGOs or media professionals. The Committee could also maintain closer contact with the organizations that collaborated with it and show initiative in enquiring about their situation more frequently, as had been suggested by Mr. Modvig. It was also important for rapporteurs on reprisals to work even more closely with country rapporteurs, who generally maintained contact with the NGOs and persons that had provided them with information. Lastly, it would be useful for the Committee to develop guidelines to direct its efforts to combat reprisals and, in general, to think of ways to strengthen those efforts.

The first part (public) of the meeting rose at 12.35 p.m.